

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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JASON ALTHEIDE,

Plaintiff,

v.

CALVIN JOHNSON, *et al.*,

Defendants.

Case No. 2:21-cv-02223-RFB-EJY

ORDER

I. DISCUSSION

On December 20, 2021, Plaintiff, an inmate in the custody of the Nevada Department of Corrections (“NDOC”), submitted a civil rights complaint under 42 U.S.C. § 1983. ECF No. 1-1. Plaintiff has neither paid the \$402 filing fee for this matter nor filed an application to proceed *in forma pauperis*.

Although Plaintiff indicates in ECF No. 1-1 that he presently resides at High Desert State Prison (“HDSP”), the Court notes that, according to the NDOC database and review of the undeliverable mail receipts at ECF Nos. 3 and 4, it appears that Plaintiff currently resides at Ely State Prison (“ESP”). Therefore, as a one-time courtesy, the Clerk of the Court will send a copy of this Order to Plaintiff at ESP via email to ESP_LawLibrary@doc.nv.gov.

A. Plaintiff’s Change of Address

As stated, according to the Nevada Department of Corrections (“NDOC”) inmate database, Plaintiff is no longer at the address listed with the Court. The Court notes that pursuant to Nevada Local Rule of Practice IA 3-1, a “pro se party must immediately file with the court written notification of any change of mailing address, email address, telephone number, or facsimile number. The notification must include proof of service on each opposing party or the party’s attorney. Failure to comply with this rule may result in the dismissal of the action, entry of default judgment, or other sanctions as deemed appropriate by the court.” Nev. Loc. R. IA 3-1. This Court grants Plaintiff until on or before **March 4, 2022** to file his updated address with this Court. If Plaintiff does not

1 update the Court with his current address on or before **March 4, 2022**, this case will be subject to
 2 dismissal without prejudice.

3 B. Plaintiff's *In Forma Pauperis* Application

4 Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to commence a
 5 civil action may apply to proceed *in forma pauperis*, which allows the inmate to file the civil action
 6 without prepaying the \$402 filing fee. To apply for *in forma pauperis* status, the inmate must submit
 7 all three of the following documents to the Court:

8 (1) a completed Application to Proceed in Forma Pauperis for Inmate, on this Court's
 9 approved form (i.e. pages 1 through 3 with the inmate's two signatures on page 3),

10 (2) a Financial Certificate properly signed by both the inmate and a prison or jail official
 11 (i.e. page 4 of this Court's approved form), and

12 (3) a copy of the inmate's prison or jail trust fund account statement for the previous
 13 six-month period.

14 The Court grants Plaintiff a one-time extension to file a complete application to proceed *in*
 15 *forma pauperis* containing all three of the required documents, or in the alternative, pay the \$402
 16 filing fee for this action on or before **March 4, 2022**. Absent unusual circumstances, the Court will
 17 not grant any further extensions of time.

18 If Plaintiff is unable to file a complete application to proceed *in forma pauperis* with all three
 19 required documents or pay the \$402 filing fee on or before **March 4, 2022**, the Court will
 20 recommend dismissal of this case without prejudice allowing Plaintiff to file a new case with the
 21 Court when Plaintiff is able to acquire all three of the documents needed to file a complete
 22 application to proceed *in forma pauperis* or pays the \$402 filing fee.

23 A dismissal without prejudice means Plaintiff does not give up the right to refile the case
 24 with the Court, under a new case number, when Plaintiff has all three documents needed to submit
 25 with an application to proceed *in forma pauperis*. Alternatively, Plaintiff may choose not to file an
 26 application to proceed *in forma pauperis* and instead pay the filing fee of \$402 on or before **March**
 27 **4, 2022** to proceed with this case.

1 The Court will retain Plaintiff's civil rights complaint (ECF No. 1-1), but the Court will not
 2 file the complaint unless and until Plaintiff timely files a complete application to proceed *in forma*
 3 *pauperis* with all three documents or pays the \$402 filing fee.

4 **II. ORDER**

5 Accordingly, and for the foregoing reasons, IT IS HEREBY ORDERED that the Clerk of the
 6 Court **must** send Plaintiff the approved form application to proceed *in forma pauperis* by an inmate,
 7 as well as the document entitled information and instructions for filing an *in forma pauperis*
 8 application.

9 IT IS FURTHER ORDERED that the Clerk of the Court **must** send, as a one-time courtesy,
 10 a copy of this Order to Plaintiff at ESP via email to ESP_LawLibrary@doc.nv.gov.

11 IT IS FURTHER ORDERED that Plaintiff shall file his updated address with the Court on
 12 or before **March 4, 2022**.

13 IT IS FURTHER ORDERED that on or before **March 4, 2022**, Plaintiff **must** either pay the
 14 \$402 filing fee for a civil action (which includes the \$350 filing fee and the \$52 administrative fee)
 15 or file with the Court:

16 (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this Court's
 17 approved form (i.e. pages 1 through 3 of the form with the inmate's two signatures on page
 18 3),

19 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official
 20 (i.e. page 4 of this Court's approved form), and

21 (3) a copy of the **inmate's prison or jail trust fund account statement for the previous**
 22 **six-month period**.

23 IT IS FURTHER ORDERED that, if Plaintiff does not file an updated address and a complete
 24 application to proceed *in forma pauperis* with all three documents or pay the \$402 filing fee for a
 25 civil action on or before **March 4, 2022**, the Court will recommend dismissal of this case without
 26 prejudice for Plaintiff to refile the case with the Court, under a new case number, when Plaintiff
 27 updates his current address and has all three documents needed to file a complete application to
 28 proceed *in forma pauperis* or pays the \$402 filing fee.

1 IT IS FURTHER ORDERED that the Clerk of the Court shall retain Plaintiff's complaint
2 (ECF No.1-1) but will not file it at this time.

3 Dated this 4th day of January, 2022.

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6 ELAYNA J. YOUCHAH
7 UNITED STATES MAGISTRATE JUDGE
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